

Appl. No. : 09/892,900
Filed : June 26, 2001

REMARKS

In response to the Office Action mailed March 21, 2005, Applicants respectfully request the Examiner to reconsider the above-captioned application in view of the foregoing amendments and the following comments. As a result of the amendments listed above, Claims 14-17, 19, 23, 24, 30, 33 and 36 remain pending. Claims 18, 20-22, 25-29, 31, 32, 34 and 35 have been canceled, without prejudice or disclaimer.

In the changes made by the current amendment, ~~deletions are shown by strikethrough~~, and additions are underlined.

Applicants Have Placed The Claims In Condition For Allowance

Claims 14-17, 19, 23, 24, 28, 30, 31, 33, 34 and 36 presently stand rejected under 35 U.S.C. § 102(b) or 35 U.S.C. § 103(a) in view of Bau '852. Applicant submits that the claims, as amended herein, are in condition for allowance and respectfully requests withdrawal of the present rejections.

Independent Claims 14, 19 and 23 recite an infusion pump including, among other limitations, a platen that moves in a first direction for a total distance that is about one-fourth of a minimum dimension in a direction perpendicular to the first direction. The Examiner admits that the prior art does not disclose such specific range of movement, but concludes that the claimed range is obvious because discovering the optimum or workable ranges involves only routine experimentation.

However, M.P.E.P. § 2144.05(II)(B) states that a particular parameter must first be recognized as a result-effective variable before the determination of the optimum or workable ranges of the variable might be characterized as routine experimentation. The Examiner has not pointed to any evidence that the relationship between the total distance of movement of the platen and the minimum dimension of the fluid reservoir space perpendicular to the platen direction of motion is recognized as a variable which achieves a recognized result.

The Bau '852 reference, or the other art of record, does not provide such evidence. The dispenser of the Bau '852 reference is configured to dispense face cream, or a similar viscous material. Although the Examiner states that Bau '852 reference teaches that the spring exerts a force throughout its range of movement, there is no disclosure or suggestion regarding the relationship between the distance of the plunger movement in comparison to the minimum lateral

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dimension of the dispenser reservoir. The only discussion of the relationship between platen movement distance and the reservoir minimum dimension in the record comes from the Applicants' own disclosure. Accordingly, Applicants respectfully submit that the Examiner has not established a prima facie case of obviousness and request withdrawal of the present rejections.

Claims 15-17, 24, 30, 33 and 36 are allowable, not only because they depend from an allowable claim, but upon their own merit as well. Applicants respectfully submit that the application is now in condition for allowance.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims and specification. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney, Curtiss C. Dosier at (949) 721-7613 (direct line), to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: June 17, 2005

By: 

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